

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 10, 2006

D047033 People v. Bird

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D048199 In re Alexis B., a Juvenile

Judgment affirmed. Benke, Acting, P.J.; We Concur: Nares, J., Irion, J.

D048825 Martin B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Martin B. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D048605 Timothy M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Timothy M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

Court convened at 9 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke
Clerk: D Moore

D046393 People v. Vitale

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Andrew Mestman, Deputy Attorney General argued for respondent. Mr. Ford replied. Cause submitted.

Court recessed at 9:29 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Judith Haller

D046434 People v. Torres

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Erin Drenning, Deputy Attorney General argued for respondent. Mr. Babcock replied. Cause submitted.

Court recessed at 9:52 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 10, 2006 (Continued)

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron
Clerk: D. Moore

D047104 In re Patrick Z., a Juvenile

Cause called on merits. Debra Leffler-Streeter, Esq. argued for appellant. Kathleen Frey, Certified Law Student from Attorney General's office argued for respondent. Ms. Streeter replied. Cause submitted.

D047454 In re Bruce M., a Juvenile

Cause called on merits. Jamie L. Popper, Esq. argued for appellant. Shanish Aloor, Certified Law Student from Attorney General's office argued for respondent. Ms. Popper replied. Cause submitted.

D045911 Justice v. Dubois

Cause called on merits. Lillian Justice, argued for appellant, in pro per. Brent D. Peterson, Esq. argued for respondent. Ms. Justice replied. Cause submitted.

D046635 Carroll et al. v. Pacific Specialty Insurance Co., et al.

D046868 Carroll et al. v. Pacific Specialty Insurance Co., et al.

Cause called on merits. David William Baumgarten, Esq. argued for appellant. Michelle Kelli Burton, Esq. argued for respondent. Mr. Baumgarten replied. Cause submitted as to D046635 only.

Court recessed at 2:41 p.m. until Tuesday, July 11, 2006 at 9 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2006

D048021 In re Anthony D., a Juvenile

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., Irion, J.

D047823 People v. Debonis

The judgment is affirmed. Huffman, Acting P.J., We Concur: Nares, J., Aaron, J.

D047693 In re Cheyenne B., a Juvenile

The order is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

D048679 Y.O. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

D046362 Canyon Capital Marketing, Inc. v. Corporate Stock Transfer, Inc.

The judgment is affirmed. Transfer is awarded its costs on appeal. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D047137 Winick et al. v. Sarafa

The order of the trial court is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D047098 People v. Anderson

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., Irion, J.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre
Clerk: D. Moore

D046883 People v. Medina

Cause called on merits. Stephen Merritt Hinkle, Esq. argued for appellant. Kristin Chenelia, Certified Law Student, argued for respondent. Cause submitted.

D046437 Rierson v. Meritplan Insurance Company et al.

Cause called on merits. Shaun Patrick Martin, Esq. argued for appellant. Jan T. Chilton, Esq. argued for respondent. Mr. Martin replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2006 (Continued)

D047357 Larner et al. v. Wedbush Morgan Securities, Inc., et al.

Cause called on merits. Vincent David Slavens, Esq. argued for appellant. Patrick Baldwin, Esq. argued for respondent, First Wall Street Corporation. Christopher H. McGrath, Esq. argued for respondent, Wedbush Morgan Securities. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. Moore

D046317 Light v. Sterling & Reid Brothers Circus

Cause called on merits. Manuel Corrales, Esq. argued for appellant. Robert D. Goldberg, Esq. argued for respondent. Mr. Corrales replied. Cause submitted.

D047002 Smith v. Choate et al.

Cause called on merits. Federico Castelan Sayre, Esq. argued for appellant. Matthew Smith, Esq. argued for respondent. Mr. Sayre replied. Cause submitted.

D047044 Gomez v. Drake Transport, Inc., et al.

Cause called on merits. Nicholas Berndt, Esq. argued for appellant. Carol Gatz, Esq. argued for respondent. Mr. Berndt replied. Cause submitted.

Court recessed at 2:46 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

D044226 FF Orthotics Corporation, Inc., et al. v. Paul et al.

Cause called on merits. Jonathan C. Solish, Esq. argued for appellant. Mark D. Walsh, argued for appellant, in pro per. No appearance by respondents. Cause submitted.

Court recessed at 3:10 p.m. until Wednesday, July 12, 2006 at 9 a.m.

D046244 People v. Morgan

The petition for rehearing is denied.

D048905 Johnson v. Superior Court of San Diego County/People

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2006 (Continued)

D048575 In re Arnold on Habeas Corpus

The petition is denied.

D048726 Vahidi v. Superior Court of San Diego County/De Maria et al.

The petition is denied.

D048577 In re Dunn on Habeas Corpus

The petition is denied.

D048747 Stutzman et al. v. Superior Court of San Diego County/Nextel Communications, Inc., et al.

The petition is denied.

D045957 Sprint Telephony PCS v. County of San Diego et al.

The petition for rehearing is denied.

D048837 In re Crenshaw on Habeas Corpus

At the request of the petitioner, the petition is dismissed.

D048887 In re O'Connor on Habeas Corpus

The mandatory registration requirement is vacated and the matter is remanded to the trial court with directions to remove the requirement that O'Connor register as a sex offender under section 290, subdivision (a)(1)(A), and conduct further proceedings to determine whether O'Connor is subject to discretionary registration under subdivision (a)(2)(E). The opinion is made final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Benke, Acting P.J.,
We Concur: McIntyre, J., O'Rourke, J.

D046037 People v. O'Connor

The appeal is dismissed as moot in light of the disposition in In re Robert Lewis O'Connor on Habeas Corpus, D048887.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2006 (Continued)

D047847 In re A.U., a Juvenile

The judgment terminating parental rights is reversed. The matter is remanded to the juvenile court, with directions that it; (1) require the Agency to give proper notice under applicable federal and state law to any prospective tribes and the BIA, and file with the court the notices, return receipts, and any responses; (2) vacate the appointment of the guardian ad litem for future hearings in this matter; and (3) hold a new permanency plan hearing under section 366.26 hearing.

If, at the permanency plan hearing, the court determines that ICWA notice was proper and no Indian tribe seeks to intervene or otherwise indicates that the child is an Indian child as defined by ICWA, the court shall reinstate its findings and orders terminating parental rights. If, on the other hand, an Indian tribe determines that the child is an Indian child under ICWA, the court shall conduct the jurisdiction, disposition, and all subsequent hearings in accordance with ICWA and applicable state law. CERTIFIED FOR PUBLICATION Aaron, J.;

We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2006

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron
Clerk: D. Moore

D046247 People v. Flores

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Ronald A. Jakob, Deputy Attorney General argued for respondent. Cause submitted.

D046770 Scott v. Smith

Cause called on merits. Jeffrey A. Agnew, Esq. argued for appellant. Andrew Dunk, Esq. argued for respondent. Mr. Agnew replied. Cause submitted.

D046284) CWE Enterprises et al. v. McGraw-Hill Broadcasting Company

D046672) CWE Enterprises et al. v. McGraw-Hill Broadcasting Company

Cause called on merits. Gregg Allen Johnson, Esq. argued for appellant. Guylyn R. Cummins, Esq. argued for respondent. Mr. Johnson replied. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke
Clerk: D. Moore

D047293 Parker v. Hunter

Cause called on merits. Shaun P. Martin, Esq. argued for appellant. Alan K. Brubaker, Esq. argued for respondent. Mr. Martin replied. Cause submitted.

D045984 Thoryk Architecture, Inc. v. Trans West Housing, Inc., et al.

Cause called on merits. Jerold H. Goldberg, Esq. argued for appellant. Richard W. Weinthal, Esq. argued for respondent. Mr. Goldberg replied. Cause submitted.

Court recessed at 2:19 p.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2006 (Continued)

D047383 Roze v. Department of Motor Vehicles

Cause called on merits. Chris A. Knudsen, Deputy Attorney General argued for appellant. Adam VanSusteren, Esq. argued for respondent. Mr. Knudsen replied. Cause submitted.

Court recessed at 2:43 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D048022 In re Angelina G., et al., Juveniles

Cause called on merits. Diana W. Prince, Esq. argued for appellant. Catherine Bird, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the minor. Ms. Prince replied. Cause submitted.

D044931 Grassilli v. Barr et al.

Cause called on merits. David F. Taglienti, Deputy Attorney General argued for appellant. Gregory M. Garrison, Esq. argued for respondent. Donna Bader, Esq. was present in oral argument for respondent, but did not argue. Mr. Taglienti replied. Cause to be submitted on July 19, 2006.

Court recessed at 4 p.m. until Thursday, July 13, 2006 at 9 a.m.

D048324 In re E.R. on Habeas Corpus

For good cause shown the Superior Court of San Diego County is ordered to show cause why the relief requested should not be granted. Absent a written objection on or before July 19, 2006, the responses on file will be deemed returns to the order to show cause. Petitioner may file a traverse on or before July 24, 2006.

Absent a written request on or before July 26, 2006, oral argument will be deemed waived. If a party requests oral argument, the request should be in letter form with proof of service on the other parties. The letter should also identify the focus of the party's argument and the amount of time requested, not to exceed 15 minutes.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 13, 2006

D048702 Wanakeya S. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner LaShawn D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D046653 People v. Frasier

The judgment of the trial court is affirmed with the exception of the trial court's true finding as to the allegation that Frasier suffered a prior serious felony and a strike conviction. The court's true findings as to the prior serious felony and the strike conviction are reversed, and Frasier's sentence is vacated. The matter is remanded for a new trial as to the prior serious felony and strike conviction allegations, a new sentencing hearing, and any further proceedings not inconsistent with this opinion. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

D047585 People v. Stevens

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., Aaron, J.

Court convened at 9 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre
Clerk: D. Moore

D048161 Jaclyn S. et al. v. Superior Court

Matter called on merits. Richard P. Siref, Esq. argued for petitioner. Judith E. Klein, Esq. argued for petitioner. Paula Roach, Deputy County Counsel argued for respondent. Mr. Siref replied. Matter submitted.

D048195 In re Heidi G., a Juvenile

Cause called on merits. Joanne Willis Newton, Esq. argued for appellant. J. Jeffrey Bitticks, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the minor. Ms. Newton replied. Cause submitted.

D045270) Hagen et al. v. La Jolla Bank

D046132) Hagen v. La Jolla Bank

Cause called on merits. Larry W. Hagen, argued for appellant, in pro per. Jon R. Williams, Esq. argued for respondent. Lynda B. Hagen, argued for appellant, in pro per. Mr. Williams replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 13, 2006 (Continued)

Court recessed at 10:12 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

D044546 Red Mountain, LLC v. Fallbrook Public Utility District

Cause called on merits. Bruce W. Beach, Esq. argued for appellant. Charles Campbell, Esq. argued for respondent. Mr. Beach replied. Cause submitted.

Court adjourned at 10:50 a.m.

D044138 People v. Anzalone

The judgment as to counts 2 through 4 is reversed. The judgment is affirmed as to all other counts. CERTIFIED FOR PARTIAL PUBLICATION Benke, Acting P.J.;
We Concur: Huffman, J., McDonald, J.

D047357 Larner et al. v. Wedbush Morgan Securities, Inc. et al.

The appeal is dismissed. Respondents are entitled to their costs on appeal. McIntyre, J.;
We Concur: Nares, Acting P.J., McDonald, J.

D046981 People v. Pham

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

D048412 In re Kayla W., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.

D047892 In re Byrd on Habeas Corpus

The petition is denied.

D046245 People v. Lochtefeld

The petition for rehearing is granted.

D048438 Talley v. The Marshall Group, Inc. et al

The motion to dismiss is granted. The appeal is dismissed as to John M. Cleary, Kenneth E. Dawkins, Paul R. Ekholm, Edward Hentges and James Iverson only.

D048097 Elliott v. California State Personnel Board/Board of Trustees of California State University

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 14, 2006

D048020 In re Jose L., a Juvenile

The petition for rehearing is denied.

D047956 In re Flores on Habeas Corpus

The petition is denied.

D047176 People v. Massiet

The judgment is reversed to the extent it is based on the trial court's finding that Massiet has suffered a prior serious felony conviction. The People shall have 60 days after the remittitur is filed in which to give notice of their intent to seek retrial of the prior serious felony conviction allegation. If the People give such notice, the court shall hold a new trial on the prior serious felony allegation. If the People fail to give such notice, the court shall resentence Massiet in accordance with this opinion. Aaron, J.; We Concur: Benke, Acting P.J., Haller, J.

D048085 People v. Huff

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D048531 Gregory O. v. The Superior Court of San Diego County/San Diego County
Health and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: Nares, Acting P.J., Haller, J.

D047687 People v. Tiwana

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Aaron, J.

D041383 Apex Wholesale, Inc. v. Fry's Electronics, Inc

The petition for rehearing is denied.

D048608 In re Deadmon on Habeas Corpus

The petition is denied.

D048745 Marriage of Hill-Miller

The appeal is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

D048606 In re Williams on Habeas Corpus

The petition is denied.